

REMARKS**INTRODUCTION:**

In accordance with the foregoing, claims 5, 10, 11, 12 have been canceled without prejudice or disclaimer, and claims 1, 4, 6, 7, 8, 9, 13, 14, and 15 have been amended. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 4, 6-9, and 13-34 are pending and under consideration. Reconsideration is respectfully requested.

ENTRY OF RESPONSE UNDER 37 C.F.R. §1.116:

Applicant requests entry of this Rule 116 Response and Request for Reconsideration because:

- (a) at least certain of the rejected claims have been canceled thereby at least reducing the issues for appeal;
- (b) it is believed that the amendments of claims 1, 4, 6, 7, 8, 9, 13, 14, and 15 put this application into condition for allowance in accordance with suggestions by the Examiner;
- (c) the amendments were not earlier presented because the Applicant believed in good faith that the cited prior art did not disclose the present invention as previously claimed;
- (d) the amendments of claims 1, 4, 6, 7, 8, 9, 13, 14, and 15 should not entail any further search by the Examiner since no new features are being added or no new issues are being raised; and/or
- (e) the amendments place the application at least into a better form for appeal.

The Manual of Patent Examining Procedures sets forth in §714.12 that "[a]ny amendment that would place the case either in condition for allowance or in better form for appeal may be entered." (Underlining added for emphasis) Moreover, §714.13 sets forth that "[t]he Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified." The Manual of Patent Examining Procedures further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

REJECTION UNDER 35 U.S.C. §102:

In the Office Action, at pages 2-5, claims 1, 7 and 9 were rejected under 35 U.S.C. §102(b) as being anticipated by Kiely (USPN 6,151,344; hereafter, Kiely). This rejection is traversed and reconsideration is requested.

The features of claim 5 have been added to independent claims 1 and 7, respectively, in view of the Examiner's suggestion on page 7 of the Office Action to add the features of claim 5 to claim 4 to place claim 4 into allowable form. Hence, amended claims 1 and 7 are submitted to be in allowable form.

The features of claims 10, 11, and 12 have been added to independent claim 9 as suggested by the Examiner on page 7 of the Office Action. Hence, amended independent claim 9 is submitted to be in allowable form. Dependent claims 13, 14, and 15 have been amended to update dependency.

In addition, it is respectfully submitted that anticipation requires a lack of novelty of the invention as claimed. The court has held that the invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a single prior art reference, arranged as in the claim. See C.R. Bard, Inc. v M3 Systems, Inc., 157 F3d 1340, 1349, 48 USPQ2d 1225, 1229-30 (Fed. Cir. 1998); Richardson v. Suzuki Motor Co., 888 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

It is respectfully submitted that all of the elements and limitations of amended independent claims 1, 7 and 9, respectively, of the present application are not shown, arranged as in the claims, by Kiely.

Hence, amended independent claims 1, 7 and 9 of the present application are not anticipated under 35 U.S.C. §102(b) by Kiely (USPN 6,151,344).

REJECTION UNDER 35 U.S.C. §103:

In the Office Action, at pages 5-7, claims 4, 8, and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kiely at al. (USPN 6,151,344; hereafter, Kiely) in view of Woodley (2003/0179787 A1; hereafter, Woodley). The reasons for the rejection are set forth in the Office Action and therefore not repeated. The rejection is traversed and reconsideration is requested.

As suggested by the Examiner on page 7 of the Office Action, independent claim 4 has been amended to include the features of claim 5, and claim 5 has been canceled without prejudice or disclaimer. Dependent claim 6 has been amended to update dependency.

Independent claim 8 has been amended in similar fashion with respect to claim 7. Hence, amended independent claim 8 is submitted to be in allowable form.

As suggested by the Examiner on page 7 of the Office Action, independent claim 9 has been amended to include the features of claims 10, 11 and 12. Claims 10-12 have been canceled without prejudice or disclaimer. Hence, amended independent claim 9 is submitted to

be in allowable form. Dependent claims 13-15 have been amended to update dependency.

Hence, amended independent claims 4 and 8 are submitted to be patentable under 35 U.S.C. §103(a) over Kiely at al. (USPN 6,151,344) in view of Woodley (2003/0179787 A1).

ALLOWABLE SUBJECT MATTER:

In the Office Action, at page 7, the Examiner objected to claims 5, 6, and 11-17 as being dependent upon a rejected base claim, but submitted that said claims would be allowable if suitably amended.

Applicant thanks the Examiner for his careful review of said claims. In accordance with the Examiner's suggestions, independent claim 4 has been amended to include the features of claim 5, and claim 5 has been canceled without prejudice or disclaimer. Dependent claim 6 has been amended to update dependency.

Also, in accordance with the Examiner's suggestions, independent claim 9 has been amended to include the features of claims 10, 11 and 12, and claims 10-12 have been canceled without prejudice or disclaimer. Dependent claims 13-15 have been amended to update dependency.

Hence, amended independent claims 4 and 9, together with claims 6 and 13-17 which depend therefrom, are submitted to be in allowable form.

The Examiner further allowed claims 18-34.

Applicant thanks the Examiner for his careful review and allowance of claims 18-34.

CONCLUSION:

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited. At a minimum, this Amendment should be entered at least for purposes of Appeal as it either clarifies and/or narrows the issues for consideration by the Board.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited and possibly concluded by the Examiner contacting the undersigned attorney for a telephone interview to discuss any such remaining issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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